



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Ms. Christine T. Rodriguez
Staff Attorney
Legal and Compliance, MC110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR95-881

Dear Ms. Rodriguez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 34593.

The Texas Department of Insurance (the "department") received a request for a proposal under which one or more buyers seek to purchase a certain insurance company. The department contends that the requested information is excepted from required public disclosure pursuant to sections 552.101 and 552.103 of the Government Code. The department submitted representative samples of the records at issue.¹

Section 552.101 excepts from required public disclosure information that is confidential by law. The department raises section 3A of article 21.28-A of the Insurance Code. We conclude that section 3A of article 21.28-A applies to the requested information. Consequently, the department must withhold the requested information from required public disclosure pursuant to section 552.101 in conjunction with section 3A of article 21.28-A of the Insurance Code.

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

The requestor contends that the requested information is a Form A application that was filed pursuant to section 5 of article 21.49-1 of the Insurance Code. Such forms are subject to public inspection. *See* Ins. Code art.21.49-1 § 5. The department asserts that the requested information is not a Form A application. Even if the requested information is a Form A application, we do not believe the requested information would be subject to public inspection pursuant to section 5 of article 21.49-1. Section 12(a) of article 21.28-A provides that "in the event of conflict between this Article [article 21.28A] and any other Article, the provisions of this Article shall govern." Thus, if the requested information were a Form A application, section 3A(a) of article 21.28A, which makes the requested information confidential, would control over section 5 of article 21.49-1.²

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

Ref.: ID# 34593

Enclosures: Submitted documents

cc: Mr. John M. DeVoe
2312 Western Trails Blvd., Suite 403
Austin, Texas 78745
(w/o enclosures)

²Because we have determined that the information is excepted from required public disclosure under section 552.101, we need not address your section 552.103 claim.